REMARKS

Applicants respectfully request reconsideration of the present application. No new matter has been added to the present application. Claims 1-51 have been rejected in the Office Action. Claims 1, 18, and 35 have been amended, no new claims have been added, and no claims have been canceled in this Amendment. Accordingly, claims 1-51 are pending herein. Claims 1-51 are believed to be in condition for allowance and such favorable action is respectfully requested.

Applicants' representative thanks the Examiner for granting a telephonic interview on October 3, 2006. During the interview, proposed amendments to the independent claims were discussed to clarify differences between the claimed invention and the cited reference, U.S. Patent No. 6,671,563 to Engelson et al. (the "Engelson reference"). In particular, it was noted that embodiments of the present invention provide a number of compliance rules that each include a respective medication, condition, and medication administration comment specific to its medication. Using such compliance rules, medication administration comments specific to a medication to be administered may provided at the place of administration of the medication. In contrast, the Engelson reference merely discusses a system that may check medication and patient information against stored patient information to automatically determine whether a discrepancy exists (e.g., whether the medication is one scheduled to be administered to the patient) and provides a generic alert if there is a discrepancy. Applicants have amended the claims based on the discussion with the Examiner to clarify differences between the claimed invention and the Engelson reference. As such, Applicants respectfully submit that the pending claims are now in condition for allowance.

Amendments to the Claims

Claims 1, 18, and 35 have been amended in this Amendment. Care has been exercised to avoid the introduction of new matter. Support for the amendments to claims 1, 18, and 35 may be found in the Specification, for example, at p. 6, lines 11-16; p. 8, line 9 through p. 10, line 14; p. 15, lines 12-16; p. 16, lines 8-13; p. 16, line 23 through p. 24, line 12; and p. 35, lines 6-12.

Rejections based on 35 U.S.C. § 102

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdeggal Brothers v. Union Oil co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 2 USPQ 2d 1913, 1920 (Fed. Cir. 1989). *See also*, MPEP § 2131.

Claims 1-3, 6, 13, 18-20, 23, 30, 35-37, 40 and 47 have been rejected under 35 U.S.C. § 102(e) as being anticipated by the Engelson reference. As the Engelson reference fails to describe, either expressly or inherently, each and every element as set forth in the claims, as amended herein, Applicants respectfully traverse this rejection, as hereinafter set forth.

Independent claim 1, as amended herein, recites a computer programmed method for providing one or more medication administration comments for preventing medication administration errors, wherein the one or more medication administration comments are provided at a place of administration of a medication in a hospital setting. The method comprises accepting a medication administrator identification for a medication administrator and accepting a patient identification for a patient. The method further comprises displaying a graphical user

interface listing one or more medications scheduled for administration to the patient and accepting the selection of one of the listed medications, the selected medication corresponding with a medication to be administered to the patient by the medication administrator. A data store is provided having a plurality of compliance rules, each of the compliance rules comprising a respective medication, a respective condition for the compliance rule, and one or more respective medication administration comments specific to the respective medication. It is determined whether a condition for a compliance rule has been satisfied, where the compliance rule relates to the selected medication and has one or more associated medication administration comments for preventing medication administration errors. At the place of administration of the medication in a hospital setting, the one or more medication administration comments associated with the compliance rule are displayed on a display device when the condition has been satisfied. Displaying the one or more medication administration comments associated with the compliance rule at the place of administration of the medication in a hospital setting enables hospitals to reduce medication errors by electronically providing valuable and comprehensive medication information needed to improve the safety and quality of the care of the patient at the time and place the medication is to be actually administered to the patient.

By way of contrast, the Engelson reference discusses a care management system for managing the administration of care to patients. *See Engelson*, col. 2, lines 31-34. The system provides for automatically verifying that the right medication is being dispensed to the right patient in the right dosage via the right delivery route at the right time by maintaining a database of information regarding the patient. *See id.*, col. 2, lines 54-59. In operation, a nurse or technician administering a medication to the patient may identify the patient and the medication to the system (e.g., by scanning a barcode associated with the patient and a barcode

associated with the medication). *See id.*, col. 13, lines 22-32. The system analyzes the data to verify that the right medication is being given to the right patient in the right dose by the right route and at the right time. *See id.*, col. 13, lines 49-54. If a discrepancy is determined, the system provides an alert. *See id.*, col. 13, lines 54-60.

Applicants respectfully submit that the Engelson reference fails to describe, either expressly or inherently, each and every element as recited in independent claim 1. For example, the Engelson reference fails to describe "providing a data store having a plurality of compliance rules, each of the compliance rules comprising a respective medication, a respective condition for the compliance rule, and one or more respective medication administration comments specific to the respective medication." The system in the Engelson reference simply fails to include such compliance rules. Instead, the Engelson reference merely discusses discrepancy checking wherein a medication to be administered to a patient is checked against stored information for the patient to determine whether a discrepancy exists (e.g., whether the medication is one scheduled to be administered to the patient). This is significantly different from the invention of claim 1 in which a plurality of compliance rules are provided that each include a medication, a condition for the compliance rule, and a comment specific to the mediation for the compliance rule. This difference is significant as the invention of claim 1 provides substantial advantages over the system of the Engelson reference by being able to provide medication administration comments that go beyond just a discrepancy warning. As such, the invention of claim 1 advances the state of the art beyond what is described in the Engelson reference.

Because the Engelson reference fails to describe providing compliance rules as described above, the Engelson reference necessarily also fails to describe "determining if a

condition for a compliance rule has been satisfied, wherein the compliance rule relates to the selected medication and has one or more associated medication administration comments for preventing medication administration errors" and "displaying at the place of administration of the medication in a hospital setting, on a display device, the one or more medication administration comments associated with the compliance rule when the condition has been satisfied."

In view of the above, it is respectfully submitted that the Engelson reference fails to describe, either expressly or inherently, every element of independent claim 1, as amended herein. As such, independent claim 1 is not anticipated by the Engelson reference, and Applicants respectfully request withdrawal of the 35 U.S.C. § 102(e) rejection of independent claim. 1.

Each of independent claims 18 and 35, as amended herein, include elements similar to those recited in independent claim 1. As such, it is respectfully submitted that the Engelson reference fails to describe, either expressly or inherently, every element of independent claims 18 and 35, as amended herein, for at least the same reasons as noted above for independent claim 1. Independent claims 18 and 35 are not anticipated by the Engelson reference, and Applicants respectfully request withdrawal of the 35 U.S.C. § 102(e) rejection of independent claims 18 and 35.

Claims 2, 3, 6, and 13 depend from independent claim 1, claims 19, 20, 23, and 30 depend from independent claim 18, and claims 36, 37, 40, and 47 depend from independent claim 35. Accordingly, these claims are believed to be in condition for allowance for at least the above-cited reasons. As such, Applicants respectfully request withdrawal of the 35 U.S.C. § 102(e) rejections of claims 2, 3, 6, 13, 19, 20, 23, 30, 36, 37, 40, and 47 as well. Dependent

claims 2, 3, 6, 13, 19, 20, 23, 30, 36, 37, 40, and 47 are believed to be in condition for allowance and such favorable action is respectfully requested.

Rejections based on 35 U.S.C. § 103

A. Applicable Authority

The basic requirements of a *prima facie* case of obviousness are summarized in MPEP § 2143 through § 2143.03. In order "[t]o establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success [in combining the references]. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)." *See* MPEP § 2143. Further, in establishing a *prima facie* case of obviousness, the initial burden is placed on the Examiner. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 USPQ 972, 972, (Bd. Pat App. & Inter. 1985)." *Id. See also* MPEP § 706.02(j) and § 2142.

B. Rejections based on Engelson

Claims 4-5, 7-12, 14-17, 21-22, 24-29, 31-34, 38-40, 41-47, and 48-51 have been rejected under 35 U.S.C. 103(a) as being unpatentable over the Engelson reference. Applicants

respectfully submit that these claims are patentable over the Engelson reference because the Engelson reference fails to teach or suggest all the claim limitations of each of these claims. Dependent claims 4-5, 7-12, and 14-17 depend from independent claim 1; dependent claims 21-22, 24-29, and 31-24 depend from independent claim 18; and claims 38-40, 41-47, and 48-51 depend from independent claim 35. Each of independent claims 1, 18, and 35, as amended herein, includes limitations not taught or suggested by the Engelson reference similarly as described hereinabove with respect to the rejection of the independent claims under 35 U.S.C. § 102(e). Further, there is no suggestion or motivation to modify the Engelson reference to achieve the invention as recited by each of these claims. Accordingly, claims 4-5, 7-12, 14-17, 21-22, 24-29, 31-34, 38-40, 41-47, and 48-51 are patentable over the Engelson reference, and Applicants request the withdrawal of the rejection of these claims under 35 U.S.C. 103(a)

CONCLUSION

Each of claims 1–51 is believed to be in condition for allowance, and a timely notice of allowance is solicited. Should it be determined that additional issues remain which might be resolved by a telephone conference, the Examiner is respectfully invited to contact Applicants' undersigned attorney.

It is believed that no fee is due in conjunction with the present Amendment. However, if this belief is in error, the Commissioner is hereby authorized to charge any amount required, or credit any overpayment, to Deposit Account No. 19-2112.

Respectfully submitted,

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